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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,474	10/07/2005	Paul F McKee	36-1945	2192
23117 7590 02/01/2011 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
ABBASZADEH, JAWIED A				
ART UNIT		PAPER NUMBER		
2115				
MAIL DATE		DELIVERY MODE		
02/01/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,474

Applicant(s)

MCKEE ET AL.

Examiner

JAWEED A. ABBASZADEH

Art Unit

2115

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/13/2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-16 and 23-26 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Gregerson et al. (hereinafter 'Gregerson') US 5,793,968

As to claim 1, Gregerson teaches a computer system comprising:

a plurality of components that can be, each component being operable to perform at least one task when not being initialized [col. 5, lines 60-64],

wherein each component is configured to produce status data from which the current level of need for that component to be initialized can be inferred, the status data representing a predetermined current level of need for that component to be initialized [col. 11, lines 13-16—"The winner of an election depends on the number of roles each participating kernel has already assumed, whether the participating kernels are active context bridges, and the current state of each kernel." The level of need to be initialized is inferred based on the number of roles and current state of each kernel.], and

wherein at least one of said components is itself also configured to:

receive status data from other components [col. 10, line 66—col. 11, line 5—
“sends an election request...If the kernel receives an election response” the status data
is provided in the election response] ;

make a comparison using its own status data and the status data received from
respective other components;

in dependence on the comparison, select one or more of said components,
possibly itself, for initialization; and

issue initialization instructions to the selected component(s) [col. 11, lines 12-
20—The kernel that is currently the manager performs an election and receives the
state of other kernels. Based on the received information, the kernel can remain as
manager or it will have to resign its post as manager. When it resigns its post as
manager, another kernel becomes manager. The assignment of the managerial role is
interpreted as initialization.].

As to claim 2, Gregerson teaches each component configured to make a
comparison using status data is configured to use its own status data in addition to the
received status data when making the comparison) [col. 11, lines 12-20].

As to claim 3, Gregerson teaches the components are software components [col.
11, line 3, “kernel”], and wherein the system includes at least one computer device on
which, in use, the software components are run [col. 4, line 62, “distributed computing
system”].

As to claim 4, Gregerson teaches the status data is in the form of an initialization
parameter [col. 11, lines 12-20].

As to claim 5, Gregerson teaches each component is configured to execute an initialization routine when the initialization parameter for that component reaches a respective threshold value, the initialization routine including the step of transmitting a request for an initialization parameter to other components [col. 11, lines 12-20].

As to claim 6, Gregerson teaches the initialization routine includes the further steps of: receiving initialization parameters from at least some of those other components; comparing the received initialization parameters with the initialization parameter for that component; and, in dependence on the comparison, making a self-initialization decision [col. 11, lines 12-20].

As to claim 7, Gregerson teaches each component includes a timer module for registering the elapsed time since the previous initialization of that component, and wherein for each component, the initialization parameter is determined at least in part in dependence on the elapsed time registered by the timer module [col. 11, lines 12-20].

As to claim 8, Gregerson teaches each component is configured to produce an initialization parameter that is at least in part dependent on whether the component is performing one of a number of predetermined tasks [col. 11, lines 12-20].

As to claim 9, Gregerson teaches the computer system includes a plurality of interconnected computer devices, each of which is housed in a respective housing, and wherein each device has, in use, a respective software component running thereon [col. 4, line 62, "distributed computing system"].

As to claim 10, Gregerson teaches the software components each include a respective operating system module for operating the computer device on which the

respective software component is running thereon [col. 4, line 62, “distributed computing system” and col. 5, lines 41-42—“operating system”].

As to claim 11, Gregerson teaches each component is configured to initiate a re-boot routine upon receipt of an initialization instruction, the re-boot routine being configured to re-boot the computer device on which the software component is running [col. 11, lines 12-20].

As to claim 12, Gregerson teaches the re-boot routine includes the step of determining if the computer device is performing a predetermined task or one of a number of predetermined tasks, and only to permit the re-booting of the computer device if the computer device is not performing such a task [col. 11, lines 12-20].

As to claim 13, Gregerson teaches the components in use run on a common computer device, under the control of a common operating system [col. 11, lines 12-20].

As to claim 14, Gregerson teaches each component, upon receipt of an initialization instruction, is configured such that the component is killed and subsequently restarted [col. 11, lines 12-20].

As to claim 15, Gregerson teaches a computer device configured to allocate tasks to the components, such that a task allocated to one component is dependent on the task or tasks being performed by at least some of the other components [col. 11, lines 12-20].

As to claim 16, Gregerson teaches this claim according to the reasoning set forth in claim 1 *supra*.

As to claims 23-26, Gregerson this claim according to the reasoning set forth in claim 1 *supra*.

Response to Arguments

Applicant's arguments with respect to claims 1-16 and 23-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAWEED A. ABBASZADEH whose telephone number is (571)270-1640. The examiner can normally be reached on Mon-Fri: 7:30 a.m.-5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on (571) 272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jaweed A Abbaszadeh/
Examiner, Art Unit 2115
1/28/2011

/Thomas Lee/
Supervisory Patent Examiner, Art Unit 2115